

employ an alternate method or procedure, he shall submit a written application to do so, in triplicate, to the appropriate TTB officer. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor. Alternate methods or procedures shall not be employed until the application has been approved by the appropriate TTB officer. The importer shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered. The importer shall retain, as part of his records, any authorization of the appropriate TTB officer under this section.

[26 FR 8190, Aug. 31, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. TTB-16, 69 FR 52424, Aug. 26, 2004]

§ 41.27 Emergency variations from requirements.

The appropriate TTB officer may approve methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations—

- (a) Will afford the security and protection to the revenue intended by the prescribed specifications,
- (b) Will not hinder the effective administration of this part, and
- (c) Will not be contrary to any provision of law.

Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith and with such procedures, conditions, and limitations shall automatically terminate the authority for such variations and the importer thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variations may be withdrawn whenever in the judgment of the appropriate

TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where an importer desires to employ such variation, he shall submit a written application to do so, in triplicate, to the appropriate TTB officer. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved. The importer shall retain, as part of his records, any authorization of the appropriate TTB officer under this section.

[26 FR 8190, Aug. 31, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. TTB-16, 69 FR 52424, Aug. 26, 2004]

§ 41.28 Penalties and forfeitures.

Anyone who fails to comply with the provisions of this part becomes liable to the civil and criminal penalties, and forfeitures, provided by law.

(72 Stat. 1425, 1426; 26 U.S.C. 5761, 5762, 5763)

[26 FR 8190, Aug. 31, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 41.29 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.41, Delegation of the Administrator's Authorities in 27 CFR Part 41, Importation of Tobacco Products and Cigarette Papers and Tubes. You may obtain a copy of this order by accessing the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB-16, 69 FR 52424, Aug. 26, 2004]

Subpart D—Taxes

TAX RATES

§ 41.30 Pipe tobacco and roll-your-own tobacco tax rates.

- (a) *Tax rates.* Pipe tobacco and roll-your-own tobacco are taxed at the following rates under 26 U.S.C. 5701(f) and (g), respectively:

§41.31

Product	Tax rate per pound* for removals during the following periods:	
	2002 to March 31, 2009	April 1, 2009 and after
Pipe tobacco	\$ 1.0969	\$ 2.8311
Roll-your-own tobacco	\$ 1.0969	\$ 24.78

* Prorate tax for fractions of a pound.

(b) *Classification.* (1) Pipe tobacco and roll-your-own tobacco, before removal subject to tax, must be put up in packages that conform to the requirements of §41.71 and of §41.72a or §41.72b as appropriate.

(2) Any tobacco that has been processed and that is removed in a package, as that term is defined in §41.11, that does not bear the notice for smokeless tobacco prescribed in §41.72 or the notice for pipe tobacco prescribed in §41.72a is deemed to be roll-your-own tobacco and subject to tax at the rate applicable to roll-your-own tobacco. A container of processed tobacco, the contents of which weigh 10 pounds or less (including any added non-tobacco ingredients or constituents), that is removed within the meaning of this part for any purpose other than destruction, export, delivery as a sample to a manufacturer of processed tobacco or tobacco products for the purpose of soliciting orders of processed tobacco, or for scientific testing or testing of equipment that results in the destruction of the processed tobacco or the return of the processed tobacco, is deemed to be a package offered for sale or delivery to the ultimate consumer.

(3) Subject to paragraph (b)(4) of this section, any tobacco that has been processed and that is removed in a package, as that term is defined in §41.11, is deemed to be roll-your-own tobacco and subject to tax at the rate applicable to roll-your-own tobacco, even though the package bears the notice required for pipe tobacco under §41.72a, if:

(i) The package does not bear the declaration "pipe tobacco" in direct conjunction with, parallel to, and in substantially the same conspicuousness of type and background as the brand name each time the brand name appears on the package; or

(ii) The package or accompanying materials bear any representation that would suggest a use other than as pipe tobacco. The term 'accompanying ma-

27 CFR Ch. I (4–1–13 Edition)

terials' includes, but is not limited to, any point of sale advertising or other printed product communications issued by the manufacturer or importer of pipe tobacco products. In addition, the inclusion of cigarette papers or tubes in a package bearing a 'pipe tobacco' declaration will suggest a use other than pipe tobacco.

(4) During the period from June 22, 2009, through March 23, 2010, importers may continue to remove products as pipe tobacco in packages that do not bear the declaration "pipe tobacco" in the manner prescribed in paragraph (b)(3)(i) of this section.

(26 U.S.C. 5702 and 5723)

[T.D. TTB-75, 74 FR 14483, Mar. 31, 2009, as amended by T.D. TTB-78, 74 FR 29415, June 22, 2009; T.D. TTB-81, 74 FR 48654, Sept. 24, 2009; T.D. TTB-104, 77 FR 37304, June 21, 2012]

§41.31 Cigar tax rates.

(a) Cigars are taxed at the following rates under 26 U.S.C. 5701(a):

Type and amount	Tax rate for removals during the following periods:	
	2002 to March 31, 2009	April 1, 2009 and after
Small cigars per thousand.	\$1.828	\$50.33
Large cigars*		
• percentage of sale price.	20.719%	52.750%
• but not to exceed—	\$48.75 per thousand.	\$0.4026 per cigar.

* For large cigars: Until March 31, 2009, the percentage tax rate applies when the sale price is \$235.294 per thousand or less, and the flat tax rate applies when the sale price is more than \$235.294 per thousand. On and after April 1, 2009, the percentage tax rate applies when the sale price is \$763.222 or less per thousand cigars, and the flat tax rate applies when the sale price is more than \$763.222 per thousand cigars.

(b) See §41.39 of this part for rules concerning determination of sale price of large cigars.

(c) Cigars not exempt from tax under 26 U.S.C. chapter 52 and the provisions of this part which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

[T.D. ATF-420, 64 FR 71942, Dec. 22, 1999. Re-designated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004; T.D. TTB-75, 74 FR 14484, Mar. 31, 2009]

§41.32 Cigarette tax rates.

Cigarettes are taxed at the following rates under 26 U.S.C. 5701(b):